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MEMORANDUM

ON

The Revenue and Taxation Code For New Mexico

DRAFTED BY THE

NEW MEXICO SPECIAL REVENUE COMMISSION

AND EMBODIED IN

HOUSE BILL No. 100

Memorandum Prepared By

GEORGE S. DOWNER

SANTA FE, FEB., 1920

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MEMORANDUM IN REGARD TO TAXATION AND REVENUE CODE

CHAPTER I.

PROPERTY SUBJECT TO TAX AND EXEMPTIONS

Sources of Sections and Amendments:

Section 101 is the same as Section 5427, Code 1915.

Section 102 is the same as Section 5234, Code 1915.

Section 103 is the same as Section 5235, Code 1915, combined with Section 1 of Chapter 89 of the Laws of 1919. However, the proviso at the end of Chapter 1, Section 81, Laws of 1919: "provided that in no event shall such equity be taxed at less than forty per centum of the purchase price stipulated in such purchase contract," is eliminated which is in line with the Governor's recommendation in that regard. Its effect is to permit the assessment of the value of the legal and equitable interests of a contractee for state lands in accordance with the real or actual value thereof, taking all the elements which may make such value into consideration, and eliminates the arbitrary minimum standard of 40 per cent of the purchase price. It would seem that if amended in this manner, the value of a contractee's interest in state lands would be measured by such elements as:

(a) The actual value of the land irrespective of the purchase price, whether more or less.

(b) The value of the security of tenure inuring by reason of the contract.

(c) The increases in the equity held by contractee both arising out of payments made on purchase price and increases in value.

(d) The difference, if any, in value on account of the comparative terms of the sale, to-wit: 1-20th down and balance any time within 30 years, with interest at 4 per cent given by the state and the terms available in case of private purchase.

Section 104 is the same as Section 5480, Code 1915, except the words "School District" are added after the word "towns." The word "literary" is eliminated and the last clause beginning with "irrigating ditches" and ending with "in repair" is eliminated. It is thought that no logical reason exists for the exemption of community irrigating ditches and canals and flumes.

Section 105 is the same as the last clause of Section 5427, Code 1915.

Section 106 is the same as section 5428, Code 1915, except the word "personal" is inserted between the words "taxation" and "property."

Section 107 is the same as Section 476, Code 1915.

Section 108 is the same as Section 3890 of the 1915 Code, except the words "suits, distresses, executions, or sales for debt" are eliminated, for the reason that these are not properly a part of a tax statute.

Section 109 is the same as Section 4571, Code 1915, except the elimination of words "this article" and substitutes a reference to the chapter from which taken, for purposes of clarity.

Section 110 is the last clause of Section 2810, Code 1915, the only change being for the purpose of clarity.

Laws Absolutely Repealed and Reasons:

Section 1329 of Code of 1915: Because same was limited to factories, mills, etc., erected and in operation on or before April 1, 1909, and hence is inoperative at this time and no good reason appears for its re-enactment.

Section 5432 Code, which covers the matter of exemption of new railroads, same being eliminated on the theory that exemption of this kind as well as irrigation ditches, etc., is economically unsound and no real justification therefor exists.

Section 5431, Code 1915: Because no real reason is apparent for the exemption of irrigation ditch canals and reservoirs, and also to conform with the amendment of Section 5430 as embodied in the enactment of Section 1047 of the proposed new act by eliminating the exemption of community ditches.

Section 14 of Chapter 54 of the Laws of 1915, which provides in general for the deduction of an exemption by the assessor whether claimed or not, for the reason that an exemption is generally considered as an optional privilege which must be claimed in order to be realized, but mostly because with the provisions in the law, there is no check to prevent the claim of separate exemptions by a husband and wife and separate exemptions in different counties.

Section 5433 of Code of 1915: Because there is apparently no justification for exemption of mining claims not patented. Very few of the mining claims are ever patented, the usual course being for the miner to retain his rights by performing the assessment work under the United States Statute. This section is also eliminated in order that the general law may conform to the plan for the assessment of mines on an ad valorem basis.

The last clause of Section 5440 providing "the owner or holder of stock in any firm or corporation, the entire capital or property of which is assessed, must not be assessed individually for such stock" is eliminated because same clearly appears to be unnecessary.

Chapter 165 of the Laws of 1919, Section 1, is repealed because the same is clearly unconstitutional, although being generally followed on account of the temerity of the general public in raising the question.

CHAPTER II.

ASSESSMENT OF PROPERTY

Sources of Sections and Amendments:

Section 201 is an amendment of Section 5450 of the Code. It is changed to permit the listing of livestock as they exist on April first and also eliminates the last sentence referring to money, notes and credits, with the idea that if that class of property is taxable as tangible property the same rule as to valuation should be applied to it as other property.

Section 202 is an amendment of Section 5457 of the Code by eliminating the words "except the county of Taos."

Section 203 is an amendment of Section 5437 of the Code. The words "at one-third of the actual cash thereof in accordance with the standards of valuation of the different classes of property as fixed by the county commissioners" are eliminated and the words "at the full value thereof" substituted. Under the code as drawn the power and duty of classification by county boards preliminary to assessment is eliminated, which makes the reason for the change apparent. Amendment is made so as to permit the listing of livestock as of April first. A proviso is also added making it unnecessary for persons owning property assessed or valued by the State Tax Commission to list and return the same to local assessors.

Sections 204 and 205 are based on Sections 5442 and 5443 of the Code and Chapter 56 of the Laws of 1915 and adapt the same to the other sections of the new law. In short, the law as to date and method of rate of livestock is made to apply to all classes instead of sheep alone and the return date changed to April first.

Section 206 is the same as Section 5438 of the Code.

Section 207 is the same as Section 5460 of the Code.

Section 208 is the same as Section 5452 of the Code.

Section 209 is the same as Section 5453 of the Code.

Section 210 is the same as Section 5441 of the Code.

Section 211 is the same as Section 5446 of the Code.

Section 212 is the same as Section 5447 of the Code.

Section 213 is the same as Section 5448 of the Code, except the return day of lists is changed from the last to the first business day of February and the return day of lists of livestock fixed as the tenth day of April.

Section 214 is the same as Section 5449 of the Code.

Section 215 is the same as Section 5451 of the Code.

Section 216 is the same as Section 5439 of the Code.

Section 217 is the same as Section 477 of the Code.

Section 218 is the same as Section 5455 of the Code.

Sections 219, 220, 221 and 222 are new laws intended to accurately define the duties, powers and responsibilities of assessors and are based upon the Arizona laws in that regard. There is nothing in the present law which does this and hence the necessity for having a new law on the subject.

Section 223 is the same as Section 5454 of the Code, except the last sentence is eliminated because the power to administer oath is given to the assessor in another section.

Section 224 is the same as Section 5461 of the Code.

Section 225 is the same as Section 5462 of the Code.

Section 226 is the same as Section 5444 of the Code.

Section 227 is the same as Section 5445 of the Code.

Section 228 is the same as Section 5440 of the Code.

Section 229 is the same as Section 538 of the Code.

Section 230 is the same as Section 5467 of the Code, except the words "in accordance with the valuations placed by the county commissioners upon different classes of property" are eliminated and the date of the meeting of the county board of equalization changed to the first Monday in May.

Section 231 is the same as Section 10 of Chapter 54 of the Laws of 1915, except change the date of the third Monday in July to the first Monday in July.

Section 232 is the same as Section 5464 of the Code.

Section 233 is the same as Section 5468 of the Code, except the date of the meeting of the county board of equalization is changed to the first Monday in May; the words "or by the State Tax Commission" are added to the second sentence and the sentence "the board shall promptly notify the State Tax Commission of any changes in the roll, etc.," is added to the section.

Sections 234 and 235 are new laws made necessary by the rearrangement of sections and their purpose is to make the prompt compilation and transmission of the tax rolls by the county authorities to the State Tax Commission mandatory.

Section 236 is the same as Section 5466 of the Code, except that a sentence is added making it the duty of the assessor or treasurer to notify the State Tax Commission of additions to the tax roll.

Section 237 repeals all existing laws on the subject of assessment of property by local authorities.

Laws Absolutely Repealed and Reasons:

Section 5434, 5435, 5436 and 5459, which in general deal with and confer the power of classification upon the board of county commissioners and make it the duty of the county assessor to follow such classification, are repealed. The reason for this is that it appears that in a taxation system committed to an actual value basis, binding classifications have no place. In other sections of the law of the new code it is made the duty of the assessor to value property on examination of the ground and any classification power in the county board will either hamper or render impossible the proper performance of such duty. A classification power in the central or state board, such as is provided for in Chapter 6, is helpful in the matter of equalization as between counties. It will be noted, however, that in Chapter 6 it is expressly provided that the assessor shall assess property in accordance with the classification and at

the actual value of the property, which is not to be less but may be more than the minimum value fixed.

Section 5458 of the Code is repealed but this appears to be a mistake and the repeal should be eliminated.

Sections 5463 and 5465 are already repealed by implication and are plainly obsolete.

Chapter 68 of the Laws of 1915 is repealed because no adequate reason appears why assessors should visit each precinct for the purpose of receiving lists of property. Under the code, as compiled, the listing of property is made the absolute duty of the tax payers and the lists when filed are made merely as guidance to the assessor. It is contemplated that the assessor will check up the lists by going on the ground and examining the property which, of course, cannot be done within the thirty-day period now provided for the listing of property.

General Observations.

Attention is called to the fact that a bill separate from the code has been introduced, it being House Bill No. 101, which increases the bond of the assessor to Fifty Thousand ($50,000) Dollars, gives him the power to appoint his own deputy and provides for the payment of traveling and subsistence expenses when away from the county seat on official business. The amendments proposed by this supplemental bill are absolutely essential in order to make it possible for the assessor to properly perform his duties and in order to enforce the penalties if he fails in such performance. This matter is made the subject of a separate bill for the reason that under the code as drawn the office of assessor will cease on January 1, 1923, and his powers will be taken over by appointed local supervisors and deputies.

The most important changes made by the codification, under this chapter are:

1. The withdrawal of the power of classification from the county commissioners.
2. Defining the powers, duties and responsibilities of assessors.
3. Making it the duty of the assessor to assess property at its full value by examination on the ground.
4. Changing the return date for all livestock to April first.
5. The changes as to the dates for the completion of the various steps in the assessment of property in order that the same may be done more rapidly and that the tax rolls will ultimately be ready as a basis for the collection of taxes at the time fixed by law.

CHAPTER III.

LEVY OF TAXES

Sources of Sections and Amendments:

Section 301 amends Section 5473 of the Code; Section 302 amends Section 5472 of the Code; Section 303 is new law; Section 304 amends Section 5470 of the Code, and Section 305 amends Section 5471 of the Code. These sections contain the necessary authorization and method for the levy of taxes by cities, school districts, counties and the State. Section 303 is a new law, it appearing that the general law does not distinctly authorize school districts to levy taxes. Section 5473 of the Code is amended by adding "the board of directors of any school district" after the word "town." To the other sections of the Code, except Section 5470, there has been added the sentence "such levies shall conform to and be within the budgets or estimates for such year as approved by the State Tax Commission and shall be within the limitations as to purposes and maximum rate of levy as provided by law." This change is made necessary on account of Sub-section 8 of Section 604 of the act which empowers the State Tax Commission to require all taxing units to file a budget or estimate of needs for which taxes must be levied and gives the Commission power to correct, revise and approve such estimates. The plan is to have the budgets filed in time so that they may be revised, approved and certified by the State Tax Commission in time for the October or levy meeting of the county board. The county board will also have at this meeting the tax roll for the year finally approved. In short, the making of the levy at the October meeting will be largely a matter of bookkeeping governed by the approved budgets, the approved tax roll and the limitations as to rate of levy provided by law. The whole scheme makes a simple, but, it is believed, adequate budget control over the raising of money by levies against property. Section 5470 of the Code is amended by inserting "State Tax Commission" instead of "State Auditor" and adding "on or before the first Monday in October."

Section 306 is the same as section 5474 of the Code, except that the word "book" is changed to "roll."

Section 307 is the same as Section 5475 of the Code, except that the word "book" is changed to "roll" and the sentence "the district attorney shall promptly send to the State Tax Commission, etc.," added to the paragraph.

Sections 308 and 309 are substantially the same as Sections 1 and 2 of Chapter 101 of the Laws of 1919.

Section 310 amends, rearranges and re-enacts Section 12 of Chapter 54 of the Laws of 1915 as amended by Chapter 17 of the Laws of 1919. An extra sentence is added so as to include the maximum rate for general county school purposes which is changed from 18 to 8 mills. The average rate in the state for the year 1920 was

slightly in excess of 9 mills. The sentence "all special levies on specific classes of property shall not exceed one-third (1-3) the maximum rate now authorized by law" was omitted at the time of the amendment in 1919. This is necessary and is included in the re-enacted section. The statutory limitations as to rate of levy have become practically ineffective because of the numerous exceptions thereto, such as the three (3) mill road levy, health levy, various special road levies and many others. The re-enactment of this limitation section would wipe out all exceptions. It might, under these circumstances, be necessary to increase the limit levies for counties slightly.

Sections 311 and 312 are substantially copies of Sections 1 and 2 of Chapter 54 of the Laws of 1915, sometimes called the five (5%) per cent limitation law, except that the word "written" is inserted in Section 2. This law has also become practically a dead letter because of the numerous exceptions thereto. Its re-enactment would operate to wipe out the exceptions.

Sections 313, 314, 315 and 316 are exact copies of Section 1, 2, 3 and 4 of Chapter 174 of the Laws of 1919, the same being the so-called State Budget Law.

Laws Absolutely Repealed and Reasons.

Section 5469 of the Code is repealed for the reason that there appears no necessity for the approval of the tax roll by the county board at their October meeting. It would seem that the final approval of the tax roll by the State Tax Commission should be binding on the county board, except as to omitted property which might be discovered which is otherwise provided for in the law. The words "which order shall be entered of record in their proceedings and endorsed upon the assessment roll under the seal of said board and the hand of the clerk thereof" is added to Section 5471 of the Code, appearing as Section 305 of the new law.

General Observations.

The most important changes made to the codification and revision under this chapter are:

1. The requirement of levy shall conform to the approved budgets.
2. The re-enactment of the law limiting the rates of levy having the effect of eliminating numerous exceptions that have grown up.
3. The change in the maximum rate of the levy for general county school purposes.
4. The re-enactment of the five (5%) per cent limit law.

CHAPTER IV.

COLLECTION OF TAXES

Sources of Sections and Amendments.

Section 401 is the same as Section 5478 Code.

Section 402 is the same as Section 5476 Code.

Section 403 is the same as Section 5479 Code, except the words "under protest" are inserted after the word "cost." This will incorporate into the statutes the rule of law on the subject.

Section 404 is the same as Section 5477 Code.

Section 405 is based on Section 5482 Code, but changes the same radically, and is at the foundation of the suggestions and proposals for the purpose of making the other laws effective from a collection standpoint. The section simply makes taxes a personal obligation, like a bill for groceries, and in addition makes taxes whether against real or personal property, a lien against all property. It is proposed to make the laws produce money instead of duplicate tax certificates and if this is to be done this section is essential.

Section 406 is the same as Section 5483 Code.

Section 407 is the same as Section 5488 Code, except the date for the first half of the taxes is changed from December 1st to January 1st.

Sections 408, 409, 410, 411 and 412 are new law intended to solve the difficulty of collecting taxes against transcient livestock or other personal property. It has been suggested that taxes against personal property should be collected at the time of assessment to solve our trouble. However, this is both onerous and discriminatory against persons whose property is personal. These sections should accomplish the same result without the hardship.

Section 413 is the same as Section 5489 Code.

Section 414 is practically new law though using parts of Sections 5492 and 5493 of the Code. It provides for a procedure for enforcing the remedy of distraint which is lacking in the present law. It will be noted that the proceedings are summary.

Sections 415 and 416 are the same as Sections 5490 and 5491 Code.

Section 417 is the same as Section 5494 Code.

Section 418 is the same as Section 5484 Code.

Section 419 is the same as Section 5480 Code.

Section 420 is the same as Section 5481 Code.

Section 421 is the same as Section 5485 Code.

Section 422 is the same as Section 5486 Code.

Section 423 is the same as Section 5487 Code.

Section 424 is the same as Sections 5507 and 5508 Code.

Section 425 is the same as Section 5504 Code.

Section 426 is based on or taken from Section 3, Chapter 52, Laws of 1917.

Section 427 is the same as Section 5511 Code.

General Observations.

The only radical change in the existing law made by this chapter is that making taxes a personal obligation and a lien on all property. The other changes are largely for the purposes of clarity and betterment of the administration of the law.

CHAPTER V.

COLLECTION OF DELINQUENT TAXES

Sources of Sections and Amendments.

Only a few of the sections of existing law are re-enacted under this chapter, on account of the radical changes made. To understand the system proposed one should have in mind the provisions of Section 405 making taxes a personal obligation, and a lien on all property. The idea in the present law of foreclosing tax liens and selling property for taxes is followed out, but the system is simplified mainly by the elimination of cumbersome, lengthy and expensive modes for the service of process and notice by publication.

Section 501 is to take the place, in part of Section 4, Chapter 80, Laws of 1917. The simplicity of the proposed procedure will be noted.

Section 502 is the same as part of Section 4, Chapter 80, Laws of 1917.

Section 503 is to take the place of parts of Sections 1, 2 and 3 of Chapter 80, Laws of 1917, by means of a short summons having a certain legal effect, viz: "Shall constitute constructive notice to all persons interested, of the **contents of said delinquent tax roll,** etc."

Section 504 is in aid of Section 503.

Section 505 takes the place of the last paragraph of Section 4, Chapter 80, Laws of 1917, and follows out the basic idea that taxes shall be a personal obligation.

Section 506 takes the place of parts of Sections 1, 2 and 4 of Chapter 80, Laws of 1917, and Section 5496 Code and eliminates the costly publication of long delinquent tax lists.

Section 507 is a limitation on Section 506.

Section 508 provides for the filing of answers to tax suits and makes the proceedings thereon summary and provides for amendments, etc.

Section 509 is based in part on Section 5, Chapter 80, Laws of 1917, and simplifies the procedure.

Section 510 is the same as one paragraph of Section 5, Chapter 80, Laws of 1917.

Section 511 is about the same as part of Section 5, Chapter 80, Laws of 1917.

Section 512 is about the same as part of Section 5, Chapter 80, Laws of 1917.

Section 513 is about the same as part of Section 6, Chapter 80, Laws of 1917.

Section 514 is new law and is for the purpose of enforcing the personal obligation for taxes.

Section 515 makes a person appearing and defending subject to a personal judgment.

Section 516 is based on parts of Section 5, Chapter 80, Laws of 1917, and has practically the same effect.

Section 517 is the same as Section 7, Chapter 80, Laws of 1917, except a judgment on appeal against a taxpayer is made collectible out of the appeal bond instead of by sale.

Section 518 is based on Section 8, Chapter 80, 1917.

Section 519 is a new and precautionary section.

Sections 520-521-522-523-524-525-526 are a revision and rearrangement of Sections 9 and 10, Chapter 80, Laws of 1917.

Sections 527 and 528 are the same as Sections 10 and 11, Chapter 80, Laws of 1917.

Section 529 is new law and taken from 1899 law.

Sections 530-531-532-533 and 534 are a revision and re-arrangement of Sections 2-12-13 and 14, Chapter 80, Laws of 1917, and Sections 5505 and 5506 of the Code.

Section 535 is new law whose purpose is plain.

Section 536 is new law carrying out further the idea of enforcing the personal obligation for taxes.

Section 537 is new law intended to do away with the difficulty of having unsalable tax certificates. Perhaps a better provision would be one for the forfeiture of property to the county and the immediate sale thereof. The validity of the tax certificate could be determined in the action to declare the forfeiture.

Section 538 is new law but obviously necessary.

Section 539 re-enacts present law but cuts the redemption period from 3 years to 18 months.

Section 540 is the same as Section 15, Chapter 80, Laws of 1917.

Section 541 is a necessary administrative provision.

Section 542 is the same as Section 5509 of the Code.

Section 543 is the same as Section 8, Chapter 102, Laws of 1919.

Section 544 is the same as Section 9, Chapter 102, Laws of 1919, except the funds into which delinquent taxes are payable.

Section 545 is the usual penalty section to, as far as possible, insure performance of duties by officers.

Laws Absolutely Repealed and Reasons:

Section 5497 Code, because unnecessary.

Section 5498 Code, only the latter portion of this section is not covered by the new law. The sentences as to the release of interest penalties might be re-enacted, but is probably not necessary.

Section 5499 Code, because it might prevent diligence by officers.

Section 5503 Code, because it would render tax deeds of uncertain value.

Section 5512 Code, because already repealed by implication Section 7, Chapter 102, Laws of 1919.

Chapter 78, Laws of 1915, because part is repealed by implication and balance is obsolete.

CHAPTER VI.

THE STATE TAX COMMISSION

Sources of Sections and Amendments:

Section 601-1-2-3-4-5 and 6 is based upon and takes the place of Sections 1 and 2 of Chapter 115 of the Laws of 1919, and Section 3 of Chapter 54 of the Laws of 1915. The material changed in the existing law is the creation of a full-time commission of three members at a salary of $4,000 per year in lieu of the present chief tax commission on full-time and two associate commissioners on part time.

Section 602-1-2-3 and 4 is based on Section 4 of Chapter 54 of the Laws of 1915, and Section 4 of Chapter 115 of the Laws of 1919. The material changes made in the existing law are the enlargement of the power of original assessment in the commission to include the assessment of mineral property in the state; the enlargement of the power of classification to include such kinds of property as within the judgment of the commission are subject to classification instead of only livestock and grazing land under the present law and the limitation of the effect of classification orders set forth in sub-section 4 which in effect is a direction to local taxing authorities to value particular classes of property at their actual value in accordance with the classification which may be more but in no case less than the minimum values fixed by such classification. The enlargement of the powers of the commission over original assessment to include mineral property in the state is in order that mineral property may be assessed on an ad valorem basis in line with the recommendations of the Revenue Commission. The enlargement of the power of classification is made necessary in part by the repeal of the law giving such power to county boards. The limitation as to the effect of classification orders is intended to remedy the abuses that have grown up in the way of valuing all property at the minimum values fixed in classification orders instead of the actual value.

Section 603. This is new law and is intended to furnish a system for the valuation of all mineral property on an ad valorem basis in furtherance of the additional power granted to the commission in that regard. As proposed, the law will withdraw all mineral property, metallic and non-metallic, from assessment by local officers, and will vest the assessment in the commission. The term "mineral property" is used as being the broadest term which could be devised. It does not limit the commission to mines so that undeveloped bodies of ore will be taxable by the commission and not by local authorities. This will prevent the assessment of a tract of

land at a higher rate than other neighboring tracts for the reason that it is believed by the local assessors to contain metals, although their presence has not been proven. Such a tract of land may be worth on the market much more than a neighboring tract, because of the possibility of its containing mineral; but if it were desired under this bill, to value that mineral, the work would necessarly be done by the State Tax Commission and the value could not be taken into account by the local tax officers. It is, of course, plain that it is intended to have the valuation of mineral property made through the aid of expert valuation engineers.

Section 604. This section enumerates the general powers of the commission, many of which are already conferred by existing law on the existing commission. The new law enlarges and makes more definite the necessary powers of the commission. This section is based, in part, upon Sections 7, 8 and 11 of Chapter 54 of the Laws of 1915.

Sections 605, 606, 607, 608, 609, 610 and 611 is new law which establishes a system of district and local supervisors to work under the direction and control of the commission for the purpose of assessing all property and to take the place of the present system of elected local or county assessors. The district and local supervisors are to be appointed by the commission after a civil service examination. Personal qualifications and fitness are also made an element for consideration of appointments. Believing that it would be both impossible and unjust to deprive county assessors of the offices to which they have been recently elected, they are continued until the end of their terms, which will be January 1, 1923. Upon the expiration of such terms the place of county assessors will be taken by local supervisors appointed and paid by the commission and working under the supervision of the commission. Local supervisors are given the same powers as assessors. Provision is made for offices and salaries of local and district supervisors, the amounts being left blank for the discretion of the legislature.

Section 612-1-2 and 3. This section is based upon and is substantially the same as Section 5 of Chapter 54 of the Laws of 1915, and prescribes the procedure for appeals to the State Tax Commission from the county board of equalization.

Section 613. This is in a measure a temporary section providing for meetings in the year 1921. The law passed will probably not go into effect for some time and it will be impossible for the new commission to conform to the dates as to regular meetings fixed in the law and hence it is provided generally that for the year 1921 that they hold such meetings as may be necessary. It is thought that this section will permit a first valuation of mineral property, in time for use as the 1921 valuation of such mineral property.

Section 614. This is the appropriation section carrying a total of $78,500 for each of the 10th and 11th fiscal years for the purpose of carrying out the provisions of the chapter. The appropriation necessary for the employment of expert engineers to value mineral

property for the next two years is made separate, $13,500 per year. The balance of the appropriation is for the purpose of carrying out the other purposes of the chapter. An important provision in this section is that making the appropriation for carrying out the provisions of the chapter, payable out of the proceeds of the State Income Tax Fund. It has been carefully estimated that the State Income Tax law will produce approximately $300,000 which will be more than adequate to care for the expenses of the State Tax Commission. It is to be noted that any balance remaining in the Income Tax Fund after the payment of the Commission's expenses goes into the State General Fund. In short, the increased expenses of the commission as proposed will not require any additional levy. The appropriation for the State Tax Commission last year was $40,000. The increase under the new plan is $38,500. However, of this increase, probably about $8,000 is extraordinary in character. That is, the first valuation of mineral property will probably cost in the neighborhood of $20,000 and a yearly re-valuation thereafter will probably cost in the neighborhood of $5,000.

Section 615. This provides simply for the transferring of unexpended balance to the new commission.

Section 616. This paragraph contains the necessary repeals and limitations.

Laws Absolutely Repealed and Reasons.

Article 390, Chapter 34, Code, being Sections 1284, 1285 and 1286, are repealed, such repeal being effective January 1, 1923. This is for the purpose of abolishing the elective officers of county assessors.

Section 6 of Chapter 54 of the Laws of 1915, is repealed. This section was the one conferring equalization powers upon the State Tax Commission. It is contemplated that equalization will be accomplished by way of supervision and control of original assessments and hence there is no necessity for granting power to make horizontal or percentage raises or reductions on classes of property within counties.

Chapter 55, Laws of 1915, and Chapter 61, Laws of 1919, being all the law relative to the taxation of mineral and the basis of a fictitious net output are repealed in view of the proposal to tax all mineral property on an ad valorem basis.

General Observations.

The chapter on the State Tax Commission involves a radical departure from the existing revenue and taxation system of New Mexico. It not only enlarges the present powers of the commission by giving them the right to assess mineral property but puts under their jurisdiction and control the assessment of all tangible property, real and personal property, within the state. The elected assessor without adequate funds to carry on the business of his office, in accordance with the experience of the past, has proved

a dismal failure. Everyone who has studied the problem understands and realizes that the proper performance of the duties of assessing property calls for peculiar skill and experience. This will never be secured as long as the officers performing this duty are elected. It is believed that the system proposed, although perhaps not perfect, will overcome, in part at least, the deficiencies and difficulties apparent to everyone. It is also to be observed that the effective administration of the laws set forth in the preceding five chapters are necessarily dependent to a large extent upon the adequate and rigid central control and administration by a properly constituted and organized State Tax Commission.

CHAPTER VII.

STATE INCOME TAX

SOURCE OF SECTION

Note: When the New York and Federal provisions are substantially identical, both citations are given.

PART I. - SHORT TITLE AND DEFINITIONS

Sec. 701	**Short Title**	New
Sec. 702	**Definitions**	
	1. "Commission"	New
	2. "Taxpayer"	Federal Definition in Title I. Sec. 1 modified by supplanting the word "Individual" for the word "person."
	3. "Military and Naval Forces"	Federal Title I. Sec. I
	4. "Taxable Year"	Federal, Sec. 200
	5. "Paid"	Federal Sec. 200; N. Y. Sec. 350 (6)
	6. "Received"	N. Y. Sec. 350 (6)
	7. "Resident"	N. Y. Sec. 350 (7) Chap. 691 Laws of 1920
	8. "Dividend"	Federal Sec. 201 (slightly revised)
	9. "Foreign Country"	N. Y. Sec. 350 (9) (slightly revised)
	10. "Personal Service Corporations"	Federal Sec. 200

PART II. THE IMPOSITION AND CALCULATION OF THE TAX

Sec. 703	**Imposition of the Tax**	New
Sec. 704	**Intangible Personal Property Exemption**	Follows N. Y. Sec. 352 (modified)
Sec. 705	**Ascertainment of Gain or Loss**	Federal Sec. 202 (a); N. Y. Sec. 353
Ses. 706	**Gain Through Exchange**	Federal Sec. 202 (b); N. Y. Sec. 354
Sec. 707	**Gain Through Reorganization**	Federal Sec. 202 (b); N. Y. Sec. 355
Sec. 708	**Inventory**	Federal Sec. 203; N. Y. Sec. 356 in part
Sec. 709	**Net Income Defined**	N. Y. Sec. 357
Sec. 710	**Computation of Net Income**	Federal Sec. 212 (b); N. Y. Sec. 358
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	2. (a)	Federal Sec. 213 (a); N. Y. Sec. 359-2 (a)
	(b)	Federal Sec. 213 (b) 2; N. Y. Sec. 359-2 (b)
	(c)	Federal Sec. 213 (b) 3; N. Y. Sec. 359-2 (c)
	(d)	N. Y. Sec. 359-2 (d) modified
	(e)	N. Y. Sec. 359-2 (e)
	(f)	N. Y. Sec. 359-2 (f)
	(g)	N. Y. Sec. 359-2 (g)
Sec. 712	**Deductions**	
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	2.	N. Y. Sec. 360 (2) by Chap. 693 of the Laws of 1920
	3.	N. Y. Sec. 360 (3) modified
	4.	Federal Sec. 214 (a) 4; N. Y. Sec. 360 (4)
	5.	Federal Sec. 214 (a) 5; N. Y. Sec. 360 (5) omitting the provision for non-residents
	6.	Federal Sec. 214 (a) 6; N. Y. Sec. 360 (6) omitting provision for non-residents
	7.	Federal Sec. 214 (a) 7; N. Y. Sec. 360 (7)
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	10.	Federal Sec. 214 (a) 9 modified
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Sec. 718	Fiduciary Returns	Federal Sec. 225 (modified)
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Sec. 720	Time and Place of Filing Returns	Federal Sec. 227 (a) in part and N. Y. Sec. 371 in part
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	3.	2nd Paragraph in part of Federal Sec. 250 (b)
	4.	3rd Paragraph of Federal Sec. 250 (b) modified
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Sec. 726	Collection of Delinquent Taxes	Springer Bill Sec. 19 modified
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Sec. 730	Report to Legislature	New, but follows Wisconsin Sec. 1087-20-2 in part
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